

200 KAR 35:020. Disbursement of monies from the Kentucky Aquaculture Production System (KAPS) Grant Program for the construction of commercial aquaculture ponds.

RELATES TO: KRS 260.960, 2000 Ky. Acts ch. 549, sec. R(661)

STATUTORY AUTHORITY: KRS 45.301(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: 2000 Ky. Acts ch. 549, sec. R(661), appropriated \$2,000,000 for fiscal year 2000-2001, and \$2,000,000 for fiscal year 2001-2002, for the construction of aquaculture infrastructure components, of which \$1,000,000 each year has been designated for the construction of commercial aquaculture ponds, placing the program under the jurisdiction of the Finance and Administration Cabinet with the authority to reassign the project to another appropriate state agency by Administrative Order. This program is not governed under existing statute. The Finance and Administration Cabinet is authorized by KRS 45.301(1)(b) to coordinate and supervise the fiscal affairs and fiscal procedures of the Commonwealth to insure the carrying out of the definite financial policies and plans approved by the General Assembly. The Governor's Office of Agricultural Policy being the appropriate agency for administering this project, and in order to implement the appropriation within the requirements of KRS 13A.100(1), this administrative regulation is being promulgated by the Finance and Administration Cabinet, on behalf of the Governor's Office of Agricultural Policy, to establish the requirements for applying for grants from the Kentucky Aquaculture Production System (KAPS) Grant Program for the construction of commercial aquaculture ponds. This administrative regulation also establishes the award criteria therefor.

Section 1. Definitions. (1) "GOAP" means the Governor's Office of Agricultural Policy.

(2) "KAPS Grant" means a Kentucky Aquaculture Production System Grant.

Section 2. General Provisions. (1) Up to \$1,000,000 has been set aside for reimbursement of eligible expenses incurred in aquaculture production system development activities undertaken between July 1, 2000, and June 30, 2001. Up to \$1,000,000 has been set aside for reimbursement of eligible expenses incurred in aquaculture production system development activities undertaken between July 1, 2001, and June 30, 2002.

(2) In order to accomplish these goals, the GOAP shall establish a project review committee, consisting of one (1) representative of the GOAP, one (1) representative of Kentucky State University, one (1) representative of the Kentucky Department of Agriculture, and three (3) members of the Kentucky Aquaculture Association representing producers of at least three (3) different priority species as identified by the Kentucky Aquaculture Task Force in its 1999 report.

(3) Funds for each fiscal year shall be divided equally among the four (4) regions of the state identified by the Kentucky Aquaculture Association. These regions shall consist of the following counties:

(a) Region Number One: Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, and Webster.

(b) Region Number Two: Adair, Allen, Barren, Breckinridge, Bullitt, Butler, Casey, Clinton, Cumberland, Edmonson, Grayson, Green, Hardin, Hart, Jefferson, Larue, Marion, Meade, Metcalfe, Monroe, Nelson, Russell, Taylor, and Warren.

(c) Region Number Three: Anderson, Bath, Boone, Bourbon, Boyle, Bracken, Campbell, Carroll, Clark, Fayette, Fleming, Franklin, Gallatin, Garrard, Grant, Harrison, Henry, Jessamine, Kenton, Lincoln, Madison, Mason, Mercer, Montgomery, Nicholas, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Trimble, Washington, and Woodford.

(d) Region Number Four: Bell, Boyd, Breathitt, Carter, Clay, Elliott, Estill, Floyd, Greenup,

Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Wayne, Whitley, and Wolfe.

(4) Each region shall be allocated twenty (20) percent (up to \$200,000) of the funds available in each year of the program. The remaining twenty (20) percent of funds shall be set aside for awards to the highest scoring applications from across the state not funded within the home region of each application. If funds set aside for a region are not exhausted during the established application period for fiscal year 2002, the Project Review Committee may, twenty (20) calendar days following the end of the application period as defined in Section 5(2) of this administrative regulation, award funds to applications from other regions.

(5)(a) Region-specific minimum scoring standards shall be established for acceptable applications based on the average of the scores awarded by the Project Review Committee to the applications received within each region. Based on the availability of funds, all applications receiving the average score or higher shall be funded, with the highest scoring applications being funded first.

(b) If additional funds remain after all applications in each particular region receiving an average score or higher have been funded, applications that received scores two (2) points or less below the region's average shall then be funded, based on the availability of funds, with the highest scoring applications within that range being funded first.

(c) Any funds remaining thereafter shall be awarded as provided in Section 2(4) of this administrative regulation.

(6) Program reimbursement shall be limited to operators of commercial aquaculture production systems, and shall not include operators of pay lakes.

(7) Flow-through systems, or production systems other than traditional commercial aquaculture ponds, shall be eligible for reimbursement and shall be required to submit a special Flow-Through Production System Application form using the Kentucky Aquaculture Production System Grant application.

Section 3. Expenses Eligible for Reimbursement. The following expenses shall be eligible for reimbursement:

- (1) Expenses related to earth movement for pond construction;
- (2) Plumbing expenses, including pipes and other plumbing requirements, related directly to drainage and water source establishment, but not including pumps or other highly mobile equipment; and
- (3) Expenses related directly to installation of electricity at pond site.

Section 4. Reimbursement Rates. (1) A one (1) time reimbursement of eligible expenses not to exceed \$2,600 per half-acre pond per program year and a rate not to exceed \$26,000 per farm/applicant per program year for aquaculture production ponds and flow-through systems shall be made for eligible expenses on applications approved by the Project Review Committee.

(2) Reimbursements shall be made at a rate not to exceed \$2,600 per half acre of pond surface area, or a rate not to exceed \$26,000 per program year for a minimum of five (5) acres of pond surface area. Maximum reimbursement rates shall only be made for pond acreage that corresponds to this subsection.

Section 5. Application for KAPS Grant. (1) Application forms shall be made available to the public through local Soil Conservation District offices and via the World Wide Web at www.kyagpolicy.com. Only applications submitted on forms distributed by the GOAP shall be considered.

(2) Applications for participation in the Aquaculture Production System Reimbursement Program for pond development planned for July 1, 2001, through June 30, 2002, shall be accepted from June 1, 2001, through August 30, 2001. Applications shall be received by the GOAP by mail at the Kentucky Aquaculture Production System Grant Program, Governor's Office of Agricultural Policy, 404 Ann Street, Frankfort, Kentucky 40601, no later than 4:30 p.m. (ET), on August 30, 2001. Applications received after this date shall not be considered, regardless of postmark date.

(3) If funds remain available following the application period designated in subsection (2) of this section, additional applications shall be accepted in successive fiscal years by the GOAP following the guidelines contained in subsection (2) of this section until the funds are exhausted.

(4) Applications shall be reviewed after each application deadline, and determinations shall be communicated to applicants.

(5) To be eligible, applicants shall agree to:

(a) Construct commercial aquaculture production systems according to species-specific guidelines provided by the Natural Resources Conservation Service;

(b) Maintain the commercial aquaculture production system according to guidelines developed by the Kentucky Aquaculture Task Force and presented in the Task Force 1999 report, Section IV, pages 9-15;

(c) Establish electrical power at the pond site;

(d) Submit a business plan that addresses the production and marketing components of the aquaculture enterprise, using the business plan outline included in the application packet provided by the GOAP;

(e) Provide an annual progress report to the GOAP on the commercial aquaculture production system that utilized a KAPS Grant; and

(f) Use the production system to produce a commercial aquaculture product for at least five (5) years.

Section 6. Application Evaluation Process. (1) A member of the Project Review Committee shall not be eligible to apply for reimbursement of eligible expenses.

(2) Applications shall be reviewed on a schedule agreed to by the Project Review Committee.

(3) Applications shall be evaluated according to the following criteria and awarded based on the number of points scored:

(a) Demonstration of site suitability for a commercial aquaculture production system = zero - twenty-five (25) points.

(b) Efficient use of cost-share funds, as demonstrated by the following:

1. Total production system development costs of less than \$3,000/half-acre = fifteen (15) points.

2. Total production system development costs of more than \$3000/half-acre = ten (10) points.

(c) Evidence of commitment to long-term development of a commercial aquaculture enterprise, as demonstrated by the following:

1. Demonstration of financial commitment = zero - seven (7) points.

2. Past agricultural experience and profitability = zero - three (3) points.

3. Operation of existing aquaculture enterprise = five (5) points.

4. Future plans to expand = two (2) points.

5. Evidence of aquaculture production training/preparation = zero - five (5) points.

6. Membership in an aquaculture producers association = three (3) points.

(d) A viable business plan, including the following components:

1. Business concept, mission, and goals = zero - five (5) points.

2. Background information = zero - five (5) points.

3. Organizational Issues = zero - five (5) points.
4. Marketing plan = zero - five (5) points.
5. Financial plan = zero - five (5) points.

Section 7. Award Process. (1) The Project Review Committee shall make determinations regarding applications following the application deadline for each program year.

(2) Determinations shall be communicated to applicants after all determinations are made.

(3) Successful applicants shall enter into an agreement with the GOAP wherein they commit to using all KAPS Grant funds that they receive for the purposes indicated in their applications.

(4) Reimbursement shall be made to successful applicants upon the submission by applicants of actual, original receipts for eligible expenses.

(5) Any funds remaining from those monies awarded for construction activity in FY 2001 shall carry forward for reimbursement of expenses incurred during FY 2002.

(6) Reimbursement shall not be made for production systems that are not commercially-viable aquaculture production systems.

(7) If an applicant discontinues commercial aquaculture production within five (5) years of the date of the disbursement of funds, the applicant shall repay the KAPS Grant according to the following schedule:

(a) Up to one (1) year from the date of disbursement, 100 percent of the grant received shall be repaid.

(b) After one (1) year from the date of disbursement, eighty (80) percent of the grant received shall be repaid.

(c) After two (2) years from the date of disbursement, sixty (60) percent of the grant received shall be repaid.

(d) After three (3) years from the date of disbursement, forty (40) percent of the grant received shall be repaid.

(e) After four (4) years from the date of disbursement, twenty (20) percent of the grant received shall be repaid.

(8) If repayment is required, hardship cases, including the death, dismemberment, or incapacitation of the project applicant, shall be considered.

Section 8. Reporting Requirements. (1) Each successful applicant shall submit a report on the commercial aquaculture production system developed with a KAPS Grant annually for five (5) years from the anniversary date of award.

(2) Annual reports shall be submitted to the GOAP Review Committee within ninety (90) days of the anniversary date of award and shall include information on the following items, and shall be submitted on report forms provided by the Project Review Committee:

(a) History of enterprise;

(b) Production levels;

(c) Marketing activity; and

(d) Production plans for the following year.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Species-specific guidelines of the Natural Resources Conservation Service;

(b) Kentucky Aquaculture Task Force 1999 report, Section IV, pages 9-15; and

(c) Kentucky Aquaculture Production System Grant Application, 7/00.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Governor's Office of Agricultural Policy, 404 Ann Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (28 Ky.R. 502; Am. 852; eff. 10-10-2001.)